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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,575	10/06/2003	Xin Jin	555255012590	3126

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EXAMINER	
GESESSE, TILAHUN	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/679,575	JIN ET AL.	
	Examiner	Art Unit	
	Tilahun B. Gesesse	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *42-49* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *42-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Status of claims

Claims 1-41 have been deleted and claims 42-49 are pending.

Response to Arguments

Applicant's arguments with respect to claims 42-49 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 42-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiem et al (US 5,815,820).

Claims 42 -43, Kiem teaches a method performed by a wireless communication device (100,200 of figure 1 and 2) having an antenna (213) that is user-adjustable between first and second configurations that differ in terms of the length to which the antenna is extended, (extends and retracts between 313-314) (see abstract and column 4, lines 50-51, and 63-64 and figures 3a-3C , column 19, 14-35).

Kiem teaches detecting that the antenna is in the first configuration (see col. 19, lines 20-22 and figure 14 item 1403).

Kiwm teaches determining a first power level for the wireless communication device based on the first antenna configuration (see col. 19, lines 22-26 and figure 14 item 1405) when the antenna is in extended position the wireless communication device is maximum power level.

Kiem teaches applying the first power level to an output signal transmitted by the device (see column 19, lines 26-29 and figure 14) in which transmit at maximum power level and notify the base station.

Kiem teaches detecting that the antenna is in the second configuration(column 19, lines 21-26 and figure 14) in which the antenna is in retract position.

Kiem teaches determining a second power level, different than the first power level, based on the second antenna configuration (column 19, lines 21-26 and figure 19) in which the power level is at lower than the power level of the extended position.

Kiem teaches applying the second power level to the output signal (column 19, lines 27-31) in which the wireless communication device is transmitter is inactive or sleep.

Claim 44, Kiem teaches the first and second applying steps comprise

limiting maximum output power of the device respectively to the first and second power levels (see column 19, lines 17-35 and figure 19, in which antenna is in extended position the power output is in maximum and antenna retracts the power level is in lower output.

Claim 45,47-48,the first and second power levels are determined

based on Specific Absorption Rate (see column 17, lines 35-63 and figure 13).

Claim 46 , Kiem teaches a wireless communication device (see figures 1 and 2 items 100 and 200) having an antenna that is user-adjustable between first and second configurations that differ in terms of the length to which the antenna is extended, (extends and retracts between 313-314) (see abstract and column 4, lines 50-51, and 63-64 and figures 3a-3C , column 19, 14-35).

Kiem teaches a sensor that senses whether the antenna is in the first configuration or the second configuration (a microprocessor that senses the extending or retracting antenna , see figures 4 and 14, column 19, lines 15-35). Kiem teaches a processor (404 and 414 of figure 4) that determines a power level based on which of the configurations is sensed by the sensor and applies the determined power level to an output signal of the communication device (see figures 4 and 14 and column 19, lines 15-35).

Claim 49 , Kiem teaches a wireless communication device (100,200 of figure 1 and 2) having an antenna (213) that is user-adjustable between first and second configurations that differ in terms of the length to which the antenna is extended, (extends and retracts between 313-314) (see abstract and column 4, lines 50-51, and 63-64 and figures 3a-3C , column 19, 14-35).

Kiem teaches means detecting that the antenna is in the first configuration (see col. 19, lines 20-22 and figure 14 item 1403) and means for determining a first power level for the wireless communication device based on the first antenna configuration (see col. 19, lines 22-26 and figure 14 item 1405) when the antenna is in extended position the wireless communication device is maximum power level.

Kiem teaches means for applying the first power level to an output signal transmitted by the device (see column 19, lines 26-29 and figure 14) in which transmit at maximum power level and notify the base station and detecting that the antenna is in the second configuration(column 19, lines 21-26 and figure 14) in which the antenna is in retract position.

Kiem teaches means for determining a second power level, different than the first power level, based on the second antenna configuration (column 19, lines 21-26 and figure 19) in which the power level is at lower than the power level of the extended positon and means for applying the second power level to the output signal (column 19, lines 27-31) in which the wireless communication device is transmitter is inactive or sleep..

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Phillips et al (US 6,657,595) teach an adaptive antenna system , see abstract. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B. Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

February 08, 2008

Tilahun B Gesesse
Primary Examiner
Art Unit 2618

TILAHUN GESESSE
PRIMARY EXAMINER